

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RICHARD A. McCURDY, JR.,	:	
THE LABORERS' DISTRICT COUNCIL	:	
CONSTRUCTION INDUSTRY PENSION	:	
FUND, ET AL.	:	
	:	No. 03-6948
v.	:	
	:	
MDSC CONCRETE CONTRACTORS	:	

PLAINTIFFS' PETITION TO ENFORCE SANCTIONS AWARD

Plaintiffs, by and through their attorneys, Masterson, Braunfeld LLP, hereby petition this Court for enforcement of the non-monetary aspects of this Court's Order dated May 31, 2006 as follows:

1. This proceeding arises out of a lawsuit brought by plaintiffs, various Laborers' Union Benefit Funds against the defendant, MDSC Concrete Contractors, seeking recovery of unpaid benefit fund contributions and access to books and records of the defendant for purposes of conducting an audit to determine additional amounts owed.
2. Following an abbreviated trial on June 20, 2005, the Court, by Order dated July 6, 2005, entered judgment in favor of the plaintiffs for liquidated sums and ordered the defendants, MDSC Concrete Contractors to cooperate with plaintiffs' auditors in the conduct of the audit within 90 days of the Court's Order.
3. By Order dated April 5, 2006, this Court issued an Order holding MDSC Concrete

Contractors and its principals, Michael St. Clair and Jacqueline St. Clair in contempt of court. On May 1, 2006, plaintiffs made an application to this Court for sanctions attendant to the Court's finding of contempt against MDSC Concrete Contractors and its principals, Michael St. Clair and Jacqueline St. Clair.

4. By Order dated May 31, 2006, this Court awarded sanctions in favor of the plaintiffs and against Michael St. Clair, Jacqueline St. Clair and MDSC Concrete Contractors. A true and correct copy of the Court's Order of May 31, 2006 is attached hereto as Exhibit "A".

5. The Order of May 31, 2006 mandated that Michael St. Clair, Jacqueline St. Clair and MDSC Concrete Contractors produce certain delineated documents within 10 days of the Court's Order.

6. The Court's Order of May 31, 2006 also required Jacqueline St. Clair and Michael St. Clair to appear to the office plaintiffs' counsel for deposition in aid of execution within 20 days of the date of the Court's Order.

7. By letter June 2, 2006, counsel for plaintiffs forwarded correspondence to Michael St. Clair and Jacqueline St. Clair enclosing a copy of the Court's Order of May 31, 2006 and requesting that they contact the office of plaintiffs' counsel to schedule a date to appear for deposition in accordance with the Court's Order and to advise how and where the documents would be provided. A true and correct copy of the letter along with the certified mail receipt are attached as Exhibit "B" hereto.

8. Notwithstanding the clear directive of the Court's Order, Michael St. Clair, Jacqueline St. Clair and MDSC Concrete Contractors have deliberately refused to comply with the Court's Order and have neither appeared for deposition nor produced the requisite books and

records.

9. Having no other alternative, plaintiffs respectfully request that federal marshalls be dispatched to ensure compliance with the Court's Order.

WHEREFORE, plaintiffs respectfully request that the Court granted plaintiffs' Petition and provide plaintiffs the relieve in the attached Order.

Respectfully submitted,

MASTERSON BRAUNFELD LLP

By: NLG2551
Nancy L. Goldstein, Esquire
Identification No. 40019
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Date: _____

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No. 03-6948

ORDER

And now this day of , 2006, upon consideration of the Plaintiff's Petition to Enforce Sanctions Award, it is hereby **ORDERED** and **DECREED** that federal marshalls shall be dispatched to ensure compliance with this Court's Order of May 31, 2006 and shall produce Michael St. Clair and Jacqueline St. Clair, who shall bring with them the following records for the time period October 1, 2002 through and including December 31, 2004:

- a. Copies of all contribution reports
- b. Canceled checks as proof of payment.
- c. Individual payroll cards of payroll books
- d. Weekly payroll summary sheet
- e. Job records - showing locations
- f. Time cards and social security reports
- g. Unemployment compensation reports

- h. Cash receipts and disbursements journals.
- i. Any and all remittance forms filed with the Laborers' District Council and its related Funds.
- j. Payroll records showing hours worked.
- k. Quarterly payroll tax returns
- l. Form W-2's and 1099's.
- m. Records confirming date of hire and termination; and
- n. Any and all certified payrolls filed with the US Dept of Labor.

At the offices of plaintiffs' counsel, One West First Avenue, Suite 101, Conshohocken, PA 19428
on October 11, 2006 at 10:00 a.m.

BY THE COURT:

J.